

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Paul Theodore Galloway,)	Civil Action No.: 8:09-3255-MBS-BHH
)	
Plaintiff,)	
)	
vs.)	<u>REPORT AND RECOMMENDATION</u>
)	<u>OF MAGISTRATE JUDGE</u>
Commissioner of Social Security)	
Administration,)	
)	
Defendant.)	

The plaintiff, through his attorney, filed this action on December 18, 2009. Pursuant to Federal Rule of Civil Procedure 4(m), service of the summons and complaint must be made within 120 days from the date on which the complaint is filed, in this case, April 20, 2010. Fed. R. Civ. P. 4(m).

By order of this Court filed May 5, 2010, the plaintiff was reminded of this deadline and given an additional five days to make proof of timely service. Another order was filed on May 18, 2010, giving the plaintiff through June 7, 2010, to file his proof of service and advising him that this action is subject to dismissal for failure to prosecute and for failure to comply with this Court's Orders. On June 15, 2010, Staff for the undersigned contacted the plaintiff's attorney by phone, and the plaintiff was given an additional 15 days to file service related documents. To date, the plaintiff has failed to provide the Court with evidence that service has been accomplished or offered good cause for his failure to do so.

Based on the foregoing, it appears the plaintiff no longer wishes to pursue this action. Accordingly, it is recommended that this action be dismissed *without prejudice* pursuant to Fed.R.Civ.P. 4(m) and for failure to comply with this Court's orders, *see Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989).

s/Bruce H. Hendricks
United States Magistrate Judge

July 13, 2010

Greenville, South Carolina